

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JIMMY BAXTER PURCELL, as Executor)
of the Estate of LUCY PURCELL,)
Deceased,)

Plaintiff)

v.)

SUNRISE SENIOR LIVING, INC.,)
SUNRISE SENIOR LIVING SERVICES,)
INC., ELEVEN PACK MANAGEMENT)
CORP. and BRIGHTON GARDENS OF)
VININGS)

Defendants)

FILED IN CLERK'S OFFICE
U.S. DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA

DEC 17 2009

U.S. DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA
Clerk

CIVIL ACTION

FILE NO.

1 09-CV-3557

JEC

PETITION FOR REMOVAL

COME NOW Sunrise Senior Living, Inc., Sunrise Senior Living Services, Inc., Eleven Pack Management Corp. and Brighton Gardens of Vinings, Defendants in the above-captioned action, and hereby file this their Petition for Removal, pursuant to the provisions of 28 U.S.C. §§ 1441, et seq., and show this Court the following:

1.

The present action was commenced by the Plaintiff in the Superior Court of Cobb County. The suit is identified as Jimmy Baxter Purcell, as Executor of the Estate of Lucy Purcell, Deceased v. Sunrise Senior Living, Inc., Sunrise Senior Living

Services, Inc., Eleven Pack Management Corp. and Brighton Gardens of Vinings, Civil
Action File No. 09-1-11109-99.

2.

The Complaint was the initial pleading setting forth the claim for relief upon which this action is based. (A true and correct copy of the Plaintiff's Complaint is attached hereto as Exhibit "A"). The earliest knowledge and first notice by Defendants, or their agents, of Plaintiff's Complaint was November 19, 2009.

3.

The filing of this Petition for Removal is timely under 28 U.S.C. §1446 (b) in that it has been filed within thirty (30) days of the date of the Defendants first receiving notice of Plaintiff's Complaint.

4.

This action is of a civil nature and relates to the allegation that Plaintiff's Decedent, Lucy Purcell sustained bodily injury, endured pain and suffering, and incurred medical expenses. The substance of Plaintiff's Complaint is that Defendants committed negligence by failing to take reasonable precautions and preventive measures to provide for Decedent's safety thereby causing Decedent to sustain a fall and suffer physical injury.

5.

Pursuant to 28 § USC 1332, for the purposes of diversity of citizenship – the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent. Based upon information and belief, Lucy Purcell, Decedent was a resident of the State of Georgia.

6.

Defendant Sunrise Senior Living, Inc. and Sunrise Senior Living Services, Inc. are non-resident corporations established under the laws of the State of Delaware with principle place of business in the State of Virginia.

7.

Defendant Eleven Pack Management Corp. is a non-resident corporation established under the laws of the State of Delaware with its principal place of business in the State of Florida.

8.

Brighton Gardens of Vinings is not a legal entity. As such, there is no citizenship for this non-entity.

9.

Since neither Defendant Sunrise Senior Living, Inc., Sunrise Senior Living Services, Inc. nor Eleven Pack Management Corp. are residents of the State of Georgia and since Brighton Gardens of Vinings, Inc. is not a legal entity, there exists complete diversity among the parties who are presently before the Court.

10.

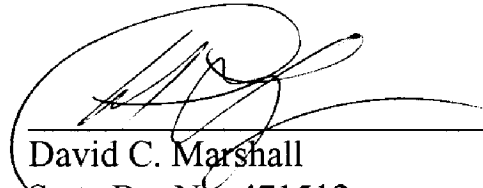
This Court has jurisdiction under 28 U.S.C. § 1332 and, therefore, this action is one which may be removed to this Court by the Petitioners/Defendants, pursuant to the provisions of 28 U.S.C. §§ 1441 and 1441(b), in that it is a civil action in which, based on the allegations contained in Plaintiff's complaint that Decedent sustained bodily injury, endured pain and suffering, and incurred medical expenses, including at least one hospitalization, the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is an action between citizens of different states.

WHEREFORE, Petitioners, Sunrise Senior Living, Inc., Sunrise Senior Living Services, Inc., Eleven Pack Management Corp. and Brighton Gardens of Vinings, Defendants in the action described hereinabove which is currently pending in the Superior Court of Cobb County, State of Georgia, Civil Action File No. 09-1-11109-99 pray that this action be removed therefrom to this Court.

****SIGNATURE ON NEXT PAGE****

Respectfully submitted this 17TH day of December, 2009.

HAWKINS & PARNELL, LLP

A handwritten signature in black ink, appearing to read 'D. Marshall', is written over a horizontal line.

David C. Marshall

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CERTIFICATE OF SERVICE

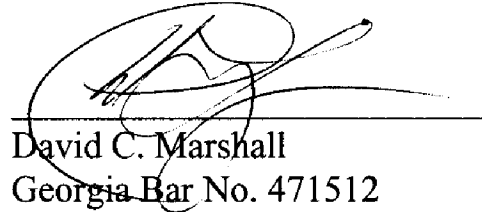
I hereby certify that I have this day served a true and correct copy of the within
and foregoing **PETITION FOR REMOVAL** to the following counsel and addressed
as follows:

Eric K. Milles, Esq.
GARVIN & MILLES
1582 Village Square Blvd.
Tallahassee, FL 32309

by depositing same in the United States mail with sufficient postage affixed
thereon.

This 17TH day of December, 2009.

HAWKINS & PARNELL, LLP

A handwritten signature in black ink, appearing to read "DCM", is written over a horizontal line.

David C. Marshall

Georgia Bar No. 471512

Christian J. Lang

Georgia Bar No. 435437